

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

GARY TORENCE SMITH, #166095,	)	
	)	
Plaintiff,	)	
v.	)	CASE NO. 2:09cv1055-MEF
	)	
LOUIS BOYD, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

On July 5, 2012, the Magistrate Judge filed a Recommendation in this case to which no timely objections have been filed. (Doc. # 103). Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is

ORDERED and ADJUDGED that the Recommendation of the Magistrate Judge is hereby ADOPTED and that:

1. The defendants' motion for summary judgment with respect to the plaintiff's constitutional claims for monetary damages lodged against them in their official capacities is GRANTED, as the defendants are entitled to absolute immunity from these claims.

2. The motion for summary judgment filed on behalf of defendants Richard Allen and Patrick Robinson regarding the plaintiff's claims against these defendants in the remaining aspects of their official capacities and in all aspects of their individual capacities is GRANTED.

3. The motion for summary judgment filed on behalf of defendants Louis Boyd,

Carter Davenport, Kenneth Sconyers, Jeffery Knox, Phelix Woods, Ibeth Jones, Marvin Scaffé, Timothy Allen, Otis Smith, Irvin Dwayne Richardson, Jimmy Thomas, Antonio McClain, Marvin Thomas and Dominic Whitley regarding all claims contained in the complaint, with the exception of the plaintiff's failure to protect claim, is GRANTED.

4. The motion for summary judgment filed on behalf of defendants Louis Boyd, Carter Davenport, Kenneth Sconyers, Jeffery Knox, Phelix Woods, Ibeth Jones, Marvin Scaffé, Timothy Allen, Otis Smith, Irvin Dwayne Richardson, Jimmy Thomas, Antonio McClain, Marvin Thomas and Dominic Whitley related to the plaintiff's failure to protect claim lodged against them in their official capacities seeking relief other than monetary damages and in all aspects of their individual capacities is DENIED.

5. The motion for summary judgment filed on behalf of defendant James Griffin regarding all claims contained in the complaint, with the exception of the plaintiff's Eighth Amendment excessive force claim and the state tort claim of assault and battery, is GRANTED.

6. The motion for summary judgment filed on behalf of defendant James Griffin as to the plaintiff's excessive force and state tort claim of assault and battery lodged against this defendant in his official capacity for other than monetary damages and in all aspects of his individual capacity is DENIED.

7. This case shall be set for a jury trial before the undersigned on (a) the

plaintiff's claims of excessive force and assault and battery lodged against defendant James Griffin, and (b) the plaintiff's failure to protect claim lodged against defendants Louis Boyd, Carter Davenport, Kenneth Sconyers, Jeffery Knox, Phelix Woods, Ibeth Jones, Marvin Scaffe, Timothy Allen, Otis Smith, Irvin Dwayne Richardson, Jimmy Thomas, Antonio McClain, Marvin Thomas and Dominic Whitley.

DONE this the 6<sup>th</sup> day of August, 2012.

/s/ Mark E. Fuller  
UNITED STATES DISTRICT JUDGE